

April 27, 1998

John Finlan Mayne
Engineer
City of Omaha
Public Works Department
Air Quality Control Division
5600 South 10th Street
Omaha, NE 68107

Dear Mr. Mayne:

This letter is to answer the questions you raised in relation to the replacement of three old boilers with one new large boiler where the capacity of the large boiler is smaller than the combined capacity of the three existing boilers that the source is removing. Below are your questions and our answers.

- 1) Does the source need a construction permit? It is OAQC's belief that no construction permit is needed because there is no net increase in the potential-to-emit (PTE).

If there is no net increase in the PTE of the source, then Title 129, Chapter 17 001.01 can be read to not require a construction permit. However, to assure that there is no net increase in the PTE, the old boilers would need to be removed before the new boiler starts construction. Otherwise, we believe that a construction permit should be issued to the source that prohibits the old boilers from being used once the new boiler starts operation. However, we recommend that the OAQC consult with the Nebraska Department of Environmental Quality on their interpretation of Chapter 17 001.01. Also, even if there is no net increase in the PTE, Title 129, Chapter 19, Prevention of Significant Deterioration of Air Quality (PSD), could still apply. OAQC would need to issue a PSD permit if either the source is already major¹ and this is a major modification or the current source is not major and the new boiler would constitute a major source by itself.

1 In this instance, the definition of major source found in 40 CFR 52.21 should be used since Title 129, Chapter 2 008 refers to Chapter 19 which adopts 52.21 by reference.

- 2) Is the new boiler subject to NSPS? It is OAQC's belief that the new boiler is subject to NSPS.

If the new² boiler has a maximum design heat input capacity greater than or equal to 2.9 MW (10 million Btu/hr), the boiler will be subject to NSPS requirements. There is no exemption from NSPS for replacing existing units. Note that the source would have to comply with the NSPS even if the permit does not contain the NSPS as an applicable requirement. The activities for compliance with the NSPS, and the schedule for doing so, are governed by the terms of the NSPS. Thus, the timing of revisions to the Title V permit does not affect the source's compliance obligations under the NSPS. Also, the permit shield, if included in the permit, would not apply since the requirement did not apply (since the boiler did not exist) at the time of permit issuance.

- 3) Does the operating permit need to be revised to reflect the new boiler? If so, what is the correct mechanism to revise the permit? It is OAQC's belief that the operating permit needs to be revised to reflect the changes in equipment.

Your questions did not say if the source has a Class I (title V) or a Class II operating permit. If the source has a Class I permit, Title 129, Chapter 15 007 specifies the changes that the permittee may make without a permit revision.

If the new boiler requires a construction permit the operating permit will need to be revised. Title 129, Chapter 7 002.03 requires the source to file a complete application for the new boiler within 12 months after it begins operation unless the current permit would prohibit the construction. Obviously this would not be an administrative permit amendment. Therefore, the change would need to be processed as a significant modification since it would not qualify as a minor permit modification.

If no construction permit is required, the permittee can make the change without revising the operating permit per Title 129, Chapter 15 007. Any new requirements would be included when OAQC issues a new permit after the current permit expires. However, OAQC or EPA could reopen the permit for cause if it is determined that the permit must be

2 This answer assumes that the boiler has not yet been constructed or was recently constructed. If this is not the case, for example if source is moving a used boiler to this site, this answer may not be correct.

revised or revoked to assure compliance with the applicable requirements.

If you have any questions, please contact Ward Burns of my staff at (913) 551-7960.

Sincerely,

Donald C. Toensing
Chief
Air Permitting & Compliance Branch